

The Honorable Jamal N. Whitehead

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COMPASS, INC. AND COMPASS
WASHINGTON, LLC,

Plaintiffs,

v.

NORTHWEST MULTIPLE LISTING
SERVICE,

Defendant.

CASE NO. 2:25-cv-00766-JNW

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

1 2. “CONFIDENTIAL” OR “ATTORNEYS’ EYES ONLY” MATERIAL

2 “Confidential” material shall include the following documents and tangible things
3 produced or otherwise exchanged:

- 4 a) Computer programming codes, software, or hardware;
- 5 b) Customer lists and customer information;
- 6 c) Internal financial data;
- 7 d) Proprietary business processes;
- 8 e) Marketing plans and non-public market research performed by a party, or by a
9 third-party on its behalf;
- 10 f) Confidential business communications, including contracts and contract
11 negotiations;
- 12 g) Tax records;
- 13 h) Documents containing personal identifying information;
- 14 i) Documents containing non-public confidential information of third parties;
- 15 j) Non-public business or strategy plans or forecasts;
- 16 k) Non-public product or service plans, including documents reflecting non-public
17 research or development of future products or services; and
- 18 l) Intellectual property or trade secrets.

19 “Attorneys’ Eyes Only” material shall include extremely sensitive “Confidential”
20 information or material, disclosure of which to another Party or Non-Party would create a
21 substantial risk of serious harm that could not be avoided by less restrictive means.

22 3. SCOPE

23 The protections conferred by this agreement cover not only Confidential and Attorneys’
24 Eyes Only material (as defined above), but also (1) any information copied or extracted from
25 confidential material; (2) all copies, excerpts, summaries, or compilations of confidential material;
26 and (3) any testimony, conversations, or presentations by parties or their counsel that might reveal

1 confidential material.

2 However, the protections conferred by this agreement do not cover information that is in
3 the public domain or becomes part of the public domain through trial or otherwise.

4 4. ACCESS TO AND USE OF CONFIDENTIAL OR ATTORNEYS' EYES ONLY
5 MATERIAL

6 4.1 Basic Principles. A receiving party may use Confidential or Attorneys' Eyes Only
7 material that is disclosed or produced by another party or by a non-party in connection with this
8 case only for prosecuting, defending, or attempting to settle this litigation. Confidential and
9 Attorneys' Eyes Only material may be disclosed only to the categories of persons and under the
10 conditions described in this agreement. Confidential and Attorneys' Eyes Only material must be
11 stored and maintained by a receiving party at a location and in a secure manner that ensures that
12 access is limited to the persons authorized under this agreement.

13 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
14 by the court or permitted in writing by the designating party, a receiving party may disclose any
15 confidential material only to:

16 (a) the receiving party's counsel of record in this action, as well as employees
17 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

18 (b) the officers, directors, employees, and contractors (including in house
19 counsel) of the receiving party to whom disclosure is reasonably necessary for this litigation;

20 (c) experts and consultants to whom disclosure is reasonably necessary for this
21 litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

22 (d) the court, court personnel, and court reporters and their staff;

23 (e) outside vendors or service providers (such as copy-service providers and
24 document-management consultants, graphic production services or other litigation support
25 services) hired by counsel and assigned to this matter, including computer service personnel
26 perform duties relating to a computerized litigation system, provided that counsel for the party

1 retaining the copy or imaging service instructs the service not to disclose any confidential material
2 to third parties.

3 (f) during their depositions, witnesses in the action who are not otherwise
4 officers, directors, employees or contractors, to whom disclosure is reasonably necessary and who
5 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
6 agreed by the designating party or ordered by the court. Pages of transcribed deposition testimony
7 or exhibits to depositions that reveal confidential material must be separately bound by the court
8 reporter and may not be disclosed to anyone except as permitted under this agreement;

9 (g) the author or recipient of a document containing the information or a
10 custodian or other person who otherwise possessed or knew the information.

11 (h) any mediator or settlement officer, and their supporting personnel, mutually
12 agreed upon by the parties engaged in settlement discussions;

13 (i) insurers for any party to the extent reasonably necessary for the performance
14 of their work associated with the litigation; and

15 (j) any other person that the designating party agrees to in writing.

16 4.3 Disclosure of “Attorneys’ Eyes Only” Information or Items. Unless otherwise
17 ordered by the court or permitted in writing by the designating party, a receiving party may disclose
18 any Attorneys’ Eyes Only material only to:

19 (a) the receiving party’s counsel of record in this action, as well as employees
20 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

21 (b) the court, court personnel, and court reporters and their staff;

22 (c) up to two attorneys employed by any Party;

23 (d) administrative personnel employed by any Party who are solely performing
24 duties relating to a computerized litigation system;

25 (e) experts and consultants to whom disclosure is reasonably necessary for this
26 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A).

1 It shall be the obligation of counsel, upon learning of any breach or threatened breach of this
2 Protective Order by any such expert or expert consultant, to promptly notify counsel for the
3 Designating Party or non-Party of such breach or threatened breach;

4 (f) the author or recipient of a document containing the information or a
5 custodian or other person who otherwise possessed or knew the information.

6 (g) during their depositions only, witnesses in the action to whom disclosure is
7 reasonably necessary and who have signed the “Acknowledgment and Agreement to be Bound”
8 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Such
9 witnesses shall not retain copies of such materials, and pages of transcribed deposition testimony
10 or exhibits to depositions that reveal Attorneys’ Eyes Only material must be separately bound by
11 the court reporter and may not be disclosed to anyone except as permitted under this agreement;

12 (h) outside vendors or service providers (such as copy-service providers and
13 document-management consultants, graphic production services or other litigation support
14 services) hired by counsel and assigned to this matter, including computer service personnel
15 perform duties relating to a computerized litigation system, provided that counsel for the party
16 retaining the copy or imaging service instructs the service not to disclose any confidential material
17 to third parties;

18 (i) any mediator or settlement officer, and their supporting personnel, mutually
19 agreed upon by the parties engaged in settlement discussions;

20 (j) insurers for any party to the extent reasonably necessary for the performance
21 of their work associated with the litigation; and

22 (k) any other person that the designating party agrees to in writing.

23 4.4 Filing Confidential or Attorneys’ Eyes Only Material. Before filing any
24 Confidential or Attorneys’ Eyes Only material, or discussing or referencing such material in court
25 filings, the filing party shall confer with the designating party, in accordance with Local Civil Rule
26 5(g)(3)(A), to determine whether the designating party will remove the confidential designation,

whether the document can be redacted, or whether a motion to seal or stipulation and proposed order is warranted. The filing party shall include with their filing only those parts of the confidential or attorneys' eyes only material that it believes is necessary to support its position. During the meet and confer process, the designating party must identify the basis for sealing the specific confidential or attorneys' eyes only information at issue, and the filing party shall include this basis in its motion to seal, along with any objection to sealing the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal. A party who seeks to maintain the confidentiality of its information must satisfy the requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion to seal. Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with the strong presumption of public access to the Court's files.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-party that designates information or items for protection under this agreement must take care to limit any such designation to specific material that qualifies under the appropriate standards. The designating party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify, so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the designating party to sanctions.

If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party must promptly notify all other parties

1 that it is withdrawing the mistaken designation.

2 5.2 Manner and Timing of Designations. Except as otherwise provided in this
3 agreement (*see, e.g.*, second paragraph of section 5.2(b) below), or as otherwise stipulated or
4 ordered, disclosure or discovery material that qualifies for protection under this agreement must
5 be clearly so designated before or when the material is disclosed or produced.

6 (a) Information in documentary form: (*e.g.*, paper or electronic documents and
7 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
8 the designating party must affix the word “CONFIDENTIAL” to each document that contains
9 confidential material or “ATTORNEYS’ EYES ONLY” to each document that contains attorneys’
10 eyes only material.

11 (b) Testimony given in deposition or in other pretrial proceedings: the parties
12 and any participating non-parties must identify on the record, during the deposition or other pretrial
13 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
14 after reviewing the transcript. Any party or non-party may, within thirty days after receiving the
15 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
16 exhibits thereto, as confidential or attorneys’ eyes only. If a party or non-party desires to protect
17 confidential or attorneys’ eyes only information at trial, the issue should be addressed during the
18 pre-trial conference.

19 (c) Other tangible items: the producing party must affix in a prominent place
20 on the exterior of the container or containers in which the information or item is stored the words
21 “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.” If only a portion or portions of the
22 information or item warrant protection, the producing party, to the extent practicable, shall identify
23 the protected portion(s).

24 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
25 designate qualified information or items does not, standing alone, waive the designating party’s
26 right to secure protection under this agreement for such material. Upon timely correction of a

1 designation, the receiving party must make reasonable efforts to ensure that the material is treated
2 in accordance with the provisions of this agreement.

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

4 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
5 confidentiality or attorneys' eyes only at any time. Unless a prompt challenge to a designating
6 party's designation is necessary to avoid foreseeable, substantial unfairness, unnecessary
7 economic burdens, or a significant disruption or delay of the litigation, a party does not waive its
8 right to challenge a designation by electing not to mount a challenge promptly after the original
9 designation is disclosed.

10 6.2 Meet and Confer. The parties, and non-parties where necessary, must make every
11 attempt to resolve any dispute regarding confidentiality and attorneys' eyes only designations
12 without court involvement. Any motion regarding designations or for a protective order must
13 include a certification, in the motion or in a declaration or affidavit, that the movant has engaged
14 in a good faith meet and confer conference with other affected parties in an effort to resolve the
15 dispute without court action. The certification must list the date, manner, and participants to the
16 conference. A good faith effort to confer requires a face-to-face meeting or a telephone conference.

17 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
18 intervention, the designating party may file and serve a motion to retain confidentiality under Local
19 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
20 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
21 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
22 other parties) may expose the challenging party to sanctions. All parties shall continue to maintain
23 the material in question as confidential or attorneys' eyes only until the court rules on the
24 challenge.

1 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
2 LITIGATION

3 If a party is served with a subpoena or a court order issued in other litigation that compels
4 disclosure of any information or items designated in this action as “CONFIDENTIAL” or
5 “ATTORNEYS’ EYES ONLY,” that party must:

6 (a) promptly notify the designating party in writing and include a copy of the
7 subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to
9 issue in the other litigation that some or all of the material covered by the subpoena or order is
10 subject to this agreement. Such notification shall include a copy of this agreement; and

11 (c) cooperate with respect to all reasonable procedures sought to be pursued by
12 the designating party whose confidential or attorneys’ eyes only material may be affected.

13 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

14 If a receiving party learns that, by inadvertence or otherwise, it has disclosed Confidential
15 or Attorneys Eyes Only material to any person or in any circumstance not authorized under this
16 agreement, the receiving party must immediately (a) notify in writing the designating party of the
17 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected
18 material, (c) inform the person or persons to whom unauthorized disclosures were made of all the
19 terms of this agreement, and (d) request that such person or persons execute the “Acknowledgment
20 and Agreement to Be Bound” that is attached hereto as Exhibit A.

21 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
22 MATERIAL

23 When a producing party gives notice to receiving parties that certain produced material is
24 subject to a claim of privilege or other protection, the obligations of the receiving parties are those
25 set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
26 whatever procedure may be established in an e-discovery order or agreement that provides for

1 production without prior privilege review. The parties agree to the entry of a non-waiver order
2 under Fed. R. Evid. 502(d) as set forth herein.

3 10. NON TERMINATION AND RETURN OF DOCUMENTS

4 Within 60 days after the termination of this action, including all appeals, each receiving
5 party must return all Confidential or Attorneys' Eyes Only material to the producing party,
6 including all copies, extracts and summaries thereof. Alternatively, the parties may agree upon
7 appropriate methods of destruction.

8 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
9 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
10 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work
11 product, even if such materials contain confidential material. Outside counsel for parties need not
12 search their email or disaster recovery systems to comply with this Order. All retained materials
13 remain subject to this Order.

14 The confidentiality obligations imposed by this agreement shall remain in effect until a
15 designating party agrees otherwise in writing or a court orders otherwise.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED: August 14, 2025

s/Ethan Glass
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21 DATED: August 14, 2025

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*Attorneys for Defendant Northwest
Multiple Listing Service*

PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents, electronically stored information (ESI) or information, whether inadvertent or otherwise, in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law. This Order shall be interpreted to provide the maximum protection allowed by Fed. R. Evid. 502(d). The provisions of Fed. R. Evid. 502(b) do not apply. Nothing contained herein is intended to or shall serve to limit a party's right to conduct a review of documents, ESI or information (including metadata) for relevance, responsiveness and/or segregation of privileged and/or protected information before production. Information produced in discovery that is protected as privileged or work product shall be immediately returned to the

1 producing party.

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3 DATED: August 15, 2025


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6 The Honorable Jamal N. Whitehead
7 United States District Court Judge
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of
 perjury that I have read in its entirety and understand the Stipulated Protective Order that was
 issued by the United States District Court for the Western District of Washington on [date] in the
 case of _____ **[insert formal name of the case and the number and initials
 assigned to it by the court]**. I agree to comply with and to be bound by all the terms of this
 Stipulated Protective Order and I understand and acknowledge that failure to so comply could
 expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will
 not disclose in any manner any information or item that is subject to this Stipulated Protective
 Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
 Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective
 Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

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